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| 10/771,914 | 02/04/2004 | Gaston Glock | HPBC C-95A | 3481 |
| 23474 7590 04/14/2009 FLYNN THIEL BOUTELL & TANIS, P.C. 2026 RAMBLING ROAD KALAMAZOO, MI 49008-1631 | | | | |
| EXAMINER | | | | |
| CHAMBERS, TROY | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3641 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/771,914

Applicant(s)

GLOCK, GASTON

Examiner

Troy Chambers

Art Unit

3641

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-15, 17, 18, 20, 22-26 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-15, 17, 18, 20, 22-26 and 29-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 7-11, 13 and 14, 17, 18, 20, 22, 29, 30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 9804880 issued to Reiner (equivalent U.S. Patent 6510642 issued to Reiner will be used in the rejection). Reiner discloses a method of controlling the use of a weapon 4.

3. With respect to claim 7, Reiner discloses transmitting from an ID unit 19 (unit 19 is a watch that is separate from the weapon as shown in Figs. 1 and 4) a signal that includes an activation code 30 (col. 10, ll. 1-4) or may be un-coded (col. 10, ll. 57-62) and a continuous signal (ultrasonic signal sent by distance meters 37 as discussed in Fig. 2 and col. 11, ll. 33-52); the weapon 4 has a transmission/receiving unit 18 that receives via an aerial 31 the ID code 30 sent by the ID unit 19 via aerial 31 (Fig. 2); the gun 4 receiver 18 upon receipt of the correct ID code 30 places the weapon in the active state (col. 10, line 5 to col. 11, line 3); after the weapon is in the active state the distance meters continue to measure the ultrasonic signals sent to the weapon; if a pre-determined distance is exceeded, the weapon will not activate release element 15 (col. 11, ll. 4-53).

4. With respect to claim 8, refer to col. 10, ll. 5-14.

5. With respect to claims 9 and 10, refer to col. 18, ll. 50-55.
6. With respect to claim 11, refer to col. 27, ll. 30-34, disclosing a sensor in the form of an optical light barrier.
7. With respect to claims 13 and 14, refer to col. 9, ll. 32-37, which disclose the capability of the device to use radio signals.
8. With respect to claim 17, the continuous signal is not disclosed as being coded. In any event, Reiner provides for both coded and uncoded signals (col. 10, ll. 56-62).
9. With respect to claim 18, Reiner discloses that the ID devices are capable of being provided with control information. (Col. 15, ll. 30-34).
10. With respect to claim 20, refer to Fig. 2 and 4 and the rejection of claim 7.
11. With respect to claims 22 and 32, Reiner discloses the use of radio signals (col. 2, ll. 51-56 and col. 9, ll. 32-37).

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
13. Claims 12 and 24 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Reiner in view of WO 01/18332 issued to Funfgelder. Reiner discloses a method of controlling the use of a weapon as described above. However, Reiner does not disclose the wristband features of claims 12, 24 and 28. Funfgelder discloses such features. Specifically, Funfgelder discloses a bracelet similar to a watch that has a continuous sensor wire with contact surfaces in the clasp of the band. If the band is cut or the clasp is opened, then a release previously issued by the sensor is reset. The legitimate owner

of the weapon can deactivate it at any time by opening the clasp of the wristband. At the time of the invention, one of ordinary skill in the art would have found it obvious to provide the weapon control system of Reiner with the wristwatch disabling features of Funfgelder. The suggestion/motivation for doing so would have been to allow the user of the firearm to disable the weapon in the event that an unauthorized individual gained access to it in the presence of the user.

14. Claims 15, 25 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of the applicant's admissions in the specification and applicable case law. Reiner discloses the claimed invention as discussed above except for the limitations requiring infrared (claim 15) and ultrasonic signals (claim 15). The applicant expressly admits that such signals are known in the art ([0004]). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Reiner with the various signals claimed and admitted by applicant to be prior art since the Examiner takes Office Notice of the equivalence of radio signals, infrared and ultrasonic signals for their use in the firearm security art and the selection of any one of these known equivalents to communicate would be within the level of ordinary skill in the art.

15. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Reiner in view of US 6260300 issued to Klebes. Reiner discloses a security system as discussed above with the exception of the wake up circuit. Klebes discloses such a circuit (col. 3, ll. 61-65). At the time of the invention, one having ordinary skill in the art would find it obvious to provide the security system of Reiner with the wake up circuit of

Klebes. The suggestion/motivation for doing so would have been to provide the capability to limit power consumption when the device is not in use.

Response to Arguments

16. Applicant's arguments filed 01/05/2009 have been fully considered but they are not persuasive as applied to the prior art.

17. As the applicant has pointed out, Reiner discloses that "the transmission and/or receiving unit (19, 219) of the user (17, 217) is designed for the continual or continually consecutive, *intermittent* signal emission." (Emphasis added.) According to the online dictionary (<http://www.merriam-webster.com/dictionary/intermittent>) intermittent clearly means NOT CONTINUOUS. Furthermore, column 9, lines 51-64 of the '642 patent clearly discloses that the alternating field 24 "can be emitted continuously." But, the disclosure goes on to state that the alternating field can be sent over time periods including "intermittently" or "depending on light intensity." So, with this in mind, the following scenario is possible: The user device 19 sends a coded (or uncoded) signal to receiving unit 18 where it is analyzed for authenticity. At this point, Reiner discloses that to ensure proper activation *following positive identification* (col. 11, ll. 4-10), distance monitoring means takes over as the means for ensuring that the weapon remains with its authorized user. Even if the user unit sends more coded authorization signals, it does not have to be continuous as discussed above. Therefore, during the period between coded signal transmissions, the only feature maintaining security is the distance measuring features described by Reiner.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Chambers whose telephone number is 571-272-6874 and whose email address is troy.chambers@uspto.gov. The examiner can normally be reached on M-F from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone, can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Troy Chambers/
Primary Examiner
Art Unit 3641

04/10/2008

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